

1
2 UNITED STATES DISTRICT COURT

3 DISTRICT OF NEW JERSEY

4 CIVIL ACTION NO. 2:16-cv-06576

5 -----x

6 INDUSTRIA DE ALIMENTOS ZENU S.A.S.,

7 Plaintiff,

8 -against-

9 LATINFOOD U.S. CORP. d/b/a ZENU

10 PRODUCTS CO. and WILSON ZULUAGA,

11 Defendant/Counter Plaintiff,

12 -----x

13 LATINFOOD U.S. CORP. d/b/a ZENU

14 PRODUCTS CO.,

15 Defendant/Counter Plaintiff,

16 -against-

17 INDUSTRIA DE ALIMENTOS ZENU S.A.S. and

18 CORDIALSA, USA, INC.,

19 Counter Defendants.

20 -----x

21 **EXHIBIT F**

22 April 11, 2019

23 10:10 a.m.

24 Confidential Deposition of LUIS SALAZAR

<p style="text-align: right;">Page 10</p> <p>1 L. Salazar</p> <p>2 A. I believe I know all of them.</p> <p>3 Q. What is your position at Industria?</p> <p>4 A. I am the commercial manager Industria</p> <p>5 De Alimentos Zenu.</p> <p>6 Q. What are your job responsibilities?</p> <p>7 A. All the sales part, marketing,</p> <p>8 investigation and development of the products.</p> <p>9 Q. Who is your employer?</p> <p>10 A. Industria De Alimentos Zenu.</p> <p>11 Q. Is Nutresa -- who is Nutresa, by the</p> <p>12 way?</p> <p>13 A. Nutresa is a holding that has</p> <p>14 different types of businesses; carnicos, ice</p> <p>15 cream, coffee and have some commercials like</p> <p>16 Cordialsa. It is the biggest one, enterprise</p> <p>17 processing company in Columbia and the third one</p> <p>18 in Latin America.</p> <p>19 Q. You just mentioned Cordialsa SA?</p> <p>20 A. Commercializing of Nutresa products.</p> <p>21 Q. And is that the same Cordialsa that is</p> <p>22 a party in this complaint?</p> <p>23 A. Cordialsa United States is not</p> <p>24 affiliated of Nutresa.</p> <p>25 Q. It is not?</p>	<p style="text-align: right;">Page 12</p> <p>1 L. Salazar</p> <p>2 A. Should I answer?</p> <p>3 Q. Yes.</p> <p>4 MR. RAYMOND: Yes. You can answer.</p> <p>5 A. Yes.</p> <p>6 Q. By the way, did you speak to your</p> <p>7 counsel in the US before this deposition today?</p> <p>8 A. Yes, sir. Yesterday we got together.</p> <p>9 Q. Was that the first time you met with</p> <p>10 Mr. Raymond?</p> <p>11 DI MR. RAYMOND: Objection.</p> <p>12 I direct him not to answer the</p> <p>13 question. Attorney/client privilege.</p> <p>14 MR. INGBER: I am not asking about the</p> <p>15 substance. I am just asking if he met with</p> <p>16 you.</p> <p>17 MR. RAYMOND: He already testified</p> <p>18 that he met with me yesterday. How many</p> <p>19 times he met with me and when he first met</p> <p>20 with me is privileged, so he is not going to</p> <p>21 respond to that. It is revealed to you he</p> <p>22 met with me to prepare for the deposition.</p> <p>23 MR. INGBER: I don't agree with that</p> <p>24 and I am allowed -- I am not asking about</p> <p>25 the substance of the questions. I am just</p>
<p style="text-align: right;">Page 11</p> <p>1 L. Salazar</p> <p>2 A. Affiliated of Nutresa.</p> <p>3 MR. INGBER: Can you just repeat the</p> <p>4 question?</p> <p>5 (Record read.)</p> <p>6 Q. I will repeat the question.</p> <p>7 So is the Cordialsa SA that you</p> <p>8 mentioned before, are they a party in this</p> <p>9 lawsuit?</p> <p>10 MR. RAYMOND: Can I just clarify that</p> <p>11 we are talking about the counter-defendant</p> <p>12 Industria De Alimentos Zenu S.A.S.? I am</p> <p>13 sorry, excuse me.</p> <p>14 Cordialsa USA, Inc., that's the</p> <p>15 company you are referring to?</p> <p>16 A. Yes.</p> <p>17 Q. Now because you are familiar with</p> <p>18 these topics and you have testified that you are</p> <p>19 the person on behalf of Industria, I am not going</p> <p>20 to go through each and every topic on there which</p> <p>21 will save us a lot of time.</p> <p>22 Are you familiar with this lawsuit in</p> <p>23 the US?</p> <p>24 MR. RAYMOND: Objection. Asked and</p> <p>25 answered, but you can answer it again.</p>	<p style="text-align: right;">Page 13</p> <p>1 L. Salazar</p> <p>2 asking if he met with you prior to</p> <p>3 yesterday.</p> <p>4 So you are directing him not to</p> <p>5 respond?</p> <p>6 MR. RAYMOND: Correct.</p> <p>7 BY MR. INGBER:</p> <p>8 Q. How long did you meet with your</p> <p>9 attorney yesterday?</p> <p>10 DI MR. RAYMOND: Again, objection.</p> <p>11 I direct him not to answer.</p> <p>12 Q. Did you review any documents in</p> <p>13 preparation for this deposition?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you currently have them with you</p> <p>16 today?</p> <p>17 A. I don't have anything here.</p> <p>18 Q. When you met with your attorneys</p> <p>19 yesterday, who was present at the deposition,</p> <p>20 excuse me, who was present at the preparation?</p> <p>21 A. Him and I and the other counsels from</p> <p>22 Columbia.</p> <p>23 Q. Was it just Mr. Raymond?</p> <p>24 MR. RAYMOND: He just testified other</p> <p>25 counsel from Columbia.</p>

<p style="text-align: right;">Page 50</p> <p>1 L. Salazar</p> <p>2 A. Not all of them and the ones that we</p> <p>3 have have been provided to our attorney.</p> <p>4 RQ MR. INGBER: I don't believe we have</p> <p>5 ever received any written report about</p> <p>6 Marquillas and we ask that it be produced.</p> <p>7 MR. RAYMOND: It's been produced. It</p> <p>8 is not a report. It is a document but it's</p> <p>9 been produced.</p> <p>10 BY MR. INGBER:</p> <p>11 Q. So you had testified that the</p> <p>12 complaint says that Industria became aware in</p> <p>13 October 2013 of Latinfood's Zenu mark in the US.</p> <p>14 Is that when you became aware of the</p> <p>15 design of the products as well?</p> <p>16 MR. RAYMOND: I object to the form of</p> <p>17 the question. Design of the products? Do</p> <p>18 you mean the labeling or something? What</p> <p>19 are you talking about?</p> <p>20 MR. INGBER: The labeling.</p> <p>21 A. I said that I had learned of this</p> <p>22 through the testimony that I mentioned. I did not</p> <p>23 say anything about the date that you are putting</p> <p>24 in the question.</p> <p>25 Q. Will you be able to check your records</p>	<p style="text-align: right;">Page 52</p> <p>1 L. Salazar</p> <p>2 telling you that.</p> <p>3 MR. INGBER: We are not just relying</p> <p>4 here on documents. We are here for</p> <p>5 testimony about his knowledge of the records</p> <p>6 of the company. So we are not just bound by</p> <p>7 the documents whatever many you produced.</p> <p>8 MR. RAYMOND: Good. Then you can ask</p> <p>9 him any question you want but you can't give</p> <p>10 him assignments. That's all I am saying.</p> <p>11 You can ask him any question you want, show</p> <p>12 him any document you want but you can't ask</p> <p>13 him to go do things for you. That's my</p> <p>14 objection. So let's move on.</p> <p>15 MR. INGBER: Okay.</p> <p>16 BY MR. INGBER:</p> <p>17 Q. Are there any other persons at</p> <p>18 Industria that would be familiar with what</p> <p>19 happened in the report from October of 2013 from</p> <p>20 Gloria?</p> <p>21 MR. RAYMOND: Object to the form.</p> <p>22 There has been no testimony the report from</p> <p>23 Gloria came from October 2013. In fact, his</p> <p>24 testimony was it came in before that.</p> <p>25 MR. INGBER: I didn't hear him testify</p>
<p style="text-align: right;">Page 51</p> <p>1 L. Salazar</p> <p>2 and determine when you exactly became aware of</p> <p>3 Latinfood's use of the Zenu brand mark?</p> <p>4 A. I already said in previous answers</p> <p>5 that we learn of this through different events.</p> <p>6 Q. I am asking you about October of 2013.</p> <p>7 Will you be able to look at your</p> <p>8 records to determine when you were first made</p> <p>9 aware of Latinfood's use of the Zenu brand?</p> <p>10 A. We will be able to look at the record</p> <p>11 and see which date we took Gloria's information.</p> <p>12 RQ MR. INGBER: We are here for a second</p> <p>13 day. I ask that you have the answer when we</p> <p>14 resume the deposition tomorrow so that we</p> <p>15 can avoid having to have you or somebody</p> <p>16 else come back to testify about that.</p> <p>17 MR. RAYMOND: Let me state that I</p> <p>18 think this whole line is inappropriate.</p> <p>19 There are documents that have been produced</p> <p>20 that set forth the dates of, I think, all</p> <p>21 the things you are asking. He has testified</p> <p>22 there were several events. It is not his</p> <p>23 job to go back and search through the</p> <p>24 documents to identify dates. He is here to</p> <p>25 testify about what he knows. And he is</p>	<p style="text-align: right;">Page 53</p> <p>1 L. Salazar</p> <p>2 about that.</p> <p>3 MR. RAYMOND: He testified about it at</p> <p>4 least twice in the last half an hour.</p> <p>5 BY MR. INGBER:</p> <p>6 Q. So are you saying that -- your</p> <p>7 attorney has just stated that and maybe I missed</p> <p>8 this previously, that Industria became aware of</p> <p>9 Latinfood's use of the Zenu brand product prior to</p> <p>10 October 2013; is that correct?</p> <p>11 MR. RAYMOND: I didn't testify --</p> <p>12 excuse me. I didn't testify to anything.</p> <p>13 What I said is that he testified that</p> <p>14 Gloria's report came in before October 2013</p> <p>15 is what he said.</p> <p>16 MR. INGBER: Okay.</p> <p>17 BY MR. INGBER:</p> <p>18 Q. So Gloria's report came in before</p> <p>19 October of 2013; is that correct?</p> <p>20 A. I have already said I do not remember</p> <p>21 the date.</p> <p>22 Q. I understand, but was it before</p> <p>23 October of 2013?</p> <p>24 A. I don't remember.</p> <p>25 Q. In paragraph 64 it says that a</p>

<p style="text-align: right;">Page 54</p> <p>1 L. Salazar</p> <p>2 supplier contacted Industria to alert it of</p> <p>3 Latinfood's activity.</p> <p>4 Who was the supplier?</p> <p>5 A. Marquillas.</p> <p>6 Q. Marquillas is a supplier of Industria?</p> <p>7 A. I do not work with the suppliers, no.</p> <p>8 Q. Who works with the suppliers?</p> <p>9 A. Santiago Jimenez.</p> <p>10 Q. Do you know if Mr. Jimenez was alerted</p> <p>11 to Marquillas's complaint?</p> <p>12 A. I don't know if he was alerted</p> <p>13 directly.</p> <p>14 Q. Have you ever spoken to Mr. Jimenez</p> <p>15 about what happened with Marquillas?</p> <p>16 A. We have talked directly to our</p> <p>17 attorneys.</p> <p>18 Q. Did you speak with Mr. Jimenez about</p> <p>19 this personally?</p> <p>20 A. No.</p> <p>21 MR. RAYMOND: Mark, just to clarify</p> <p>22 one point, I was just handed a note saying</p> <p>23 that in an e-mail that we sent you on</p> <p>24 January 28 of this year we notified you we</p> <p>25 had researched it and determined that</p>	<p style="text-align: right;">Page 56</p> <p>1 L. Salazar</p> <p>2 about Latinfood's activity; is that correct?</p> <p>3 A. Within my knowledge that's correct.</p> <p>4 Q. So I would like you to look at</p> <p>5 paragraph 65 of the complaint now.</p> <p>6 Did this investigation by Industria</p> <p>7 into Latinfood's business begin in October of 2013</p> <p>8 when Marquillas informed Industria of Latinfood's</p> <p>9 activity?</p> <p>10 A. When Industria became aware of all of</p> <p>11 that information it was immediately handled</p> <p>12 through the attorneys. I don't remember the exact</p> <p>13 date.</p> <p>14 Q. Has anyone ever contacted Industria to</p> <p>15 ask if Industria is affiliated with Latinfood in</p> <p>16 the US?</p> <p>17 A. Gloria's complaint was about that.</p> <p>18 Q. Is there anybody else beside Gloria?</p> <p>19 A. Not that I know of.</p> <p>20 MR. INGBER: Five minute break Peter.</p> <p>21 MR. RAYMOND: Sure.</p> <p>22 (Recess taken.)</p> <p>23 MR. INGBER: I would like to put a</p> <p>24 caveat on the record that your testimony</p> <p>25 today is supposed to be spontaneous. I am</p>
<p style="text-align: right;">Page 55</p> <p>1 L. Salazar</p> <p>2 Gloria's report was made on September 11,</p> <p>3 2014.</p> <p>4 Q. Do you know if there is a report by</p> <p>5 Marquillas?</p> <p>6 A. I know the information that was</p> <p>7 provided to the attorneys.</p> <p>8 Q. Is it accurate to say that then</p> <p>9 looking at paragraph 64 in the complaint that</p> <p>10 Industria was unaware of Latinfood's use of the</p> <p>11 Zenu mark in the US until in or around October</p> <p>12 2013 when Marquillas contacted Industria?</p> <p>13 A. I am not very clear on what the</p> <p>14 question is.</p> <p>15 MR. INGBER: Could you repeat the</p> <p>16 question?</p> <p>17 (Record read.)</p> <p>18 A. I did not know before. I did not</p> <p>19 know.</p> <p>20 Q. But Industria knew; is that correct?</p> <p>21 MR. RAYMOND: I am sorry.</p> <p>22 Industria knew what?</p> <p>23 Q. Industria became aware of Latinfood's</p> <p>24 use of the Zenu mark in the US in October of 2013</p> <p>25 when Marquillas contacted Industria to inform them</p>	<p style="text-align: right;">Page 57</p> <p>1 L. Salazar</p> <p>2 asking your counsel not to speak to you</p> <p>3 about the line of questions that I am asking</p> <p>4 you today so we can keep your testimony</p> <p>5 spontaneous.</p> <p>6 MR. RAYMOND: I don't know what that</p> <p>7 means but obviously I have the right to</p> <p>8 consult with my client as necessary.</p> <p>9 MR. INGBER: Well, you don't have a</p> <p>10 right to consult with your client about his</p> <p>11 testimony in the middle of a deposition.</p> <p>12 MR. RAYMOND: I certainly do, but</p> <p>13 anyway. Let's move on.</p> <p>14 MR. INGBER: If you will say you are</p> <p>15 not going to I will respect your word. That</p> <p>16 will be fine.</p> <p>17 MR. RAYMOND: Of course I am not going</p> <p>18 to say I won't consult with my client. I</p> <p>19 will consult with my client when it's about</p> <p>20 whatever I think is appropriate.</p> <p>21 MR. INGBER: So you are saying you</p> <p>22 will feel free to consult with your client</p> <p>23 about his answers during the middle of his</p> <p>24 deposition.</p> <p>25 MR. RAYMOND: I am not going to say</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 106</p> <p>1 L. Salazar</p> <p>2 A. Not me personally.</p> <p>3 Q. Who does?</p> <p>4 A. Our advertising agency, they track</p> <p>5 social media.</p> <p>6 Q. And is that D & B?</p> <p>7 A. Yes.</p> <p>8 Q. DDB?</p> <p>9 A. Yes.</p> <p>10 MR. RAYMOND: We produced a copy of</p> <p>11 that for you.</p> <p>12 MR. INGBER: A copy of?</p> <p>13 MR. RAYMOND: The Facebook chat and</p> <p>14 the translation as well.</p> <p>15 BY MR. INGBER:</p> <p>16 Q. Going back to LS B paragraph 7 page 3,</p> <p>17 Industria is making a claim that Latinfood by and</p> <p>18 through Mr. Zuluaga has fraudulently registered</p> <p>19 the Zenu mark in the US.</p> <p>20 Are you familiar with this claim?</p> <p>21 A. Yes.</p> <p>22 Q. So you agree with this?</p> <p>23 A. There is a confusion with the</p> <p>24 packaging of our products and the handling of the</p> <p>25 brand.</p>	<p style="text-align: right;">Page 108</p> <p>1 L. Salazar</p> <p>2 Q. Do you know if any Industria employees</p> <p>3 are members of the chat?</p> <p>4 A. I don't know.</p> <p>5 Q. Who would know?</p> <p>6 A. Facebook.</p> <p>7 Q. Facebook is the host of the chat;</p> <p>8 right?</p> <p>9 A. It is a public page. A women's group.</p> <p>10 Q. Are any Industria women employees part</p> <p>11 of this group, to your knowledge?</p> <p>12 A. I don't know.</p> <p>13 Q. In the last sentence of paragraph 7 of</p> <p>14 LS B it says "Indeed at one point defendants,</p> <p>15 meaning Latinfood, attempted to procure</p> <p>16 plaintiff's own labels from plaintiff's label</p> <p>17 provider in Medellin, Columbia."</p> <p>18 Do you agree with this allegation?</p> <p>19 A. That's what I was referring to this</p> <p>20 morning when I said that a provider Marquillas had</p> <p>21 communicated this to us.</p> <p>22 Q. Do we know the name of the person at</p> <p>23 Marquillas that communicated this to Industria?</p> <p>24 A. I don't know.</p> <p>25 Q. Who would know?</p>
<p style="text-align: right;">Page 107</p> <p>1 L. Salazar</p> <p>2 Q. Can you point to any confusion in the</p> <p>3 US besides Gloria Moreno?</p> <p>4 A. I mentioned Juana Solorzano.</p> <p>5 Q. This is the chat reference, is that</p> <p>6 what you are talking about?</p> <p>7 A. Yes.</p> <p>8 Q. Where is this -- the people in this</p> <p>9 chat, are they Columbians who live in America, do</p> <p>10 you know?</p> <p>11 A. They live in different areas.</p> <p>12 Q. Do you know if any of them live in the</p> <p>13 US?</p> <p>14 A. The chat references this. The people</p> <p>15 that live in the United States it is their</p> <p>16 concern.</p> <p>17 Q. But they don't mention Latinfood in</p> <p>18 their concerns, do they?</p> <p>19 A. They mention the brands and the</p> <p>20 products.</p> <p>21 Q. Again, they don't mention Latinfood,</p> <p>22 do they?</p> <p>23 MR. RAYMOND: By name you are asking?</p> <p>24 MR. INGBER: By name.</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 109</p> <p>1 L. Salazar</p> <p>2 A. I don't know.</p> <p>3 Q. Can you find out?</p> <p>4 A. I don't know.</p> <p>5 MR. RAYMOND: We will provide you with</p> <p>6 a name if we have it.</p> <p>7 MR. INGBER: Thank you.</p> <p>8 Q. In paragraph 9 on page 3 it says that</p> <p>9 "Latinfood's Zenu and Ranchera mark products can</p> <p>10 be found on shelves along with other imported</p> <p>11 Latin American goods."</p> <p>12 Do you know if that statement is</p> <p>13 accurate?</p> <p>14 A. Some people have expressed that they</p> <p>15 have seen them.</p> <p>16 Q. Can you name any of these people?</p> <p>17 A. Gloria Moreno, Juana Solorzano.</p> <p>18 Q. How about Marquillas?</p> <p>19 A. I don't have any information about</p> <p>20 them talking about the shelves in the United</p> <p>21 States.</p> <p>22 Q. In paragraph 72 of LS B on page 22 I</p> <p>23 ask you to turn to that page and it says in this</p> <p>24 paragraph that, this is a claim by Industria, that</p> <p>25 Latinfood attempted to procure 400,000 of</p>

28 (Pages 106 - 109)